

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN  
BEFORE THE DEPARTMENT OF REGULATION AND LICENSING

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IN THE MATTER OF A PETITION  
FOR AN ADMINISTRATIVE INJUNCTION  
INVOLVING

YUWARAK SOUMPHOLPHAKDY,	FINAL DECISION AND ORDER
RESPONDENT.	LS0004141RAL

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The State of Wisconsin, Department of Regulation and Licensing, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, makes the following:

ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Administrative Law Judge, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Department of Regulation and Licensing.

The Division of Enforcement and Administrative Law Judge are hereby directed to file their affidavits of costs with the Department General Counsel within 15 days of this decision. The Department General Counsel shall mail a copy thereof to respondent or his or her representative.

The rights of a party aggrieved by this Decision to petition the department for rehearing and the petition for judicial review are set forth on the attached "Notice of Appeal Information."

Dated this 5th day of June, 2000.

Marlene A. Cummings

Secretary

STATE OF WISCONSIN  
BEFORE THE DEPARTMENT OF REGULATION AND LICENSING

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IN THE MATTER OF A PETITION :

FOR AN ADMINISTRATIVE INJUNCTION :

INVOLVING

RESPONDENT

: No. LS- 0004141 RAL

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### PARTIES

The parties to this action under section 227.44 of the Wisconsin Statutes and chapter RL 3 of the Wisconsin Administrative Code, and for purposes of review under sec. 227.53, Stats., are:

*Complainant:**Division of Enforcement**Department of Regulation and Licensing**1400 East Washington Ave.**Madison, WI 53703**Respondent:**Yuwarak Soumpholphakdy**7830 W. Hampton Ave. #2**Milwaukee, WI 53218*

### PROCEDURAL HISTORY

A. April 11, 2000, the complainant, the Division of Enforcement in the Department of Regulation and Licensing, filed a Petition for an administrative injunction. A hearing on the petition was scheduled for May 11, 2000. On April 14, 2000, a copy of the Petition and a Notice of Hearing were mailed to the respondent by certified mail to 7830 W. Hampton Ave. #2, Milwaukee, WI. 53218.

B. The notice of hearing informed the respondent that she was to file a written answer to the petition within 10 days after service. The respondent did not file an answer to the petition within the specified time limit.

C. The hearing was held as scheduled. The respondent did appear. The department was represented by Attorney Steven Gloe of the Department's Division of Enforcement. The hearing was recorded. The testimony and exhibits entered into evidence at the hearing form the basis for this Proposed Decision.

### FINDINGS OF FACT

1. The petition in this action was served upon the respondent by mailing to her last-known address under section RL 3.07, Wis. Admin Code. The respondent failed to comply with the requirement to file an answer but did appear at the hearing.

2. The respondent does not hold a license to practice as a manicurist in the State of Wisconsin.

3. On exact dates unknown, but at least on January 12, 2000, Yuwarak Soumpholphakdy was engaged in the practice of manicuring at Nails for You, an establishment located at 7659 W. Leuscher Ave, Milwaukee, WI 53218.

### CONCLUSIONS OF LAW

1. Under section 440.21, Stats., and chapter RL 3, Wis. Admin. Code, the Department of Regulation and Licensing is the legal authority responsible for enforcing laws requiring credentials issued under chapters 440 to 459, Stats. The department has jurisdiction over the subject-matter of a petition alleging that a person engaged in a practice without a credential required under chapters 440 through 459.

2. The respondent, was served by mail at her last-known address in Wisconsin under section RL 3.07, Wis. Admin Code. The Department of Regulation and Licensing has personal jurisdiction over the respondent under section 801.04(2), Stats., and section RL 3.07, Wis. Admin. Code.

3. The respondent, has engaged in the practice of manicuring without a license in violation of section 454.04(1)(d), Stats. A special order enjoining respondent from continuing in the unlicensed practice of manicuring is therefore appropriate under section 440.21(2), Stats.

#### OPINION

This case is an action for an administrative injunction against the respondent under the authority of sec. 440.21, Stats., and ch. RL 3, Wis. Admin. Code. The petition in this matter alleged that the respondent engaged in activities which are reserved by statute to those holding a valid manicuring license, under section 454.04(1)(d), Stats.

A preponderance of the evidence establishes the respondent engaged in the practice of manicuring without the professional credential required by statute. The investigator for the division of enforcement testified that on January 12, 2000, while performing an inspection of Nails for You, that upon questioning the respondent at first denied performing manicuring services but later admitted to doing so. Upon placing a telephone call to the owner of the salon the investigator confirmed from the owner's admission that the respondent in fact had engaged in providing manicuring services. The owner's admission was against her interest for which she has been disciplined and is credible supporting evidence.

An administrative injunction is authorized by section 440.21(2), Stats., and chapter RL 3, Wis. Admin. Code, and it is clearly appropriate here.

Any person who violates a special order issued under section 440.21(2), Stats., may be required to forfeit up to \$10,000 for each offense, under section 440.21(4), Stats., and each day of continued violation constitutes a separate offense

#### ORDER

Based on the authority in section 440.21(2) of the Wisconsin Statutes and chapter RL 3 of the Wisconsin Administrative Code, and the Findings of Fact and Conclusions of Law below,

### **THE DEPARTMENT OF REGULATION AND LICENSING HEREBY ISSUES THE FOLLOWING SPECIAL ORDER:**

Effective on the date on which this order is signed by the departmental secretary or her designee,

- the respondent, Yuwarak Soumpholphakdy, is **enjoined and prohibited** from continuing to engage, directly or indirectly, in manicuring, which is conduct which requires a credential under chapter 454, Stats., unless and until she obtains the appropriate credential under chapter 454, Stats.; and

### **ANY VIOLATION OF THIS SPECIAL ORDER MAY RESULT IN A FORFEITURE OF UP TO \$10,000 FOR EACH OFFENSE, WITH EACH DAY OF CONTINUED VIOLATION CONSTITUTING A SEPARATE OFFENSE.**

Dated and signed: May 12, 2000

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William A. Black

Administrative Law Judge

Department of Regulation and Licensing